

105TH CONGRESS
1ST SESSION

H. J. RES. 92

JOINT RESOLUTION

Granting the consent of Congress to the Alabama-Coosa-Tallapoosa River Basin Compact.

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Granting the consent of Congress to the Alabama-Coosa-
Tallapoosa River Basin Compact.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*

1 **SECTION 1. CONGRESSIONAL CONSENT.**

2 The Congress consents to the Alabama-Coosa-
3 Tallapoosa River Basin Compact entered into by the
4 States of Alabama and Georgia. The compact is substan-
5 tially as follows:

6 **“Alabama-Coosa-Tallapoosa River Basin**
7 **Compact**

8 “The States of Alabama and Georgia and the United
9 States of America hereby agree to the following compact
10 which shall become effective upon enactment of concurrent
11 legislation by each respective state legislature and the
12 Congress of the United States

13 “SHORT TITLE

14 “This Act shall be known and may be cited as the
15 ‘Alabama-Coosa-Tallapoosa River Basin Compact’ and
16 shall be referred to hereafter in this document as the ‘ACT
17 Compact’ or ‘Compact’.

18 “ARTICLE I

19 “COMPACT PURPOSES

20 “This Compact among the States of Alabama and
21 Georgia and the United States of America has been en-
22 tered into for the purposes of promoting interstate comity,
23 removing causes of present and future controversies, equi-
24 tably apportioning the surface waters of the ACT, engag-
25 ing in water planning, and developing and sharing com-
26 mon data bases.

1 “ARTICLE II

2 “SCOPE OF THE COMPACT

3 “This Compact shall extend to all of the waters arising within the drainage basin of the ACT in the states of Alabama and Georgia.

6 “ARTICLE III

7 “PARTIES

8 “The parties to this Compact are the states of Alabama and Georgia and the United States of America.

10 “ARTICLE IV

11 “DEFINITIONS

12 “For the purposes of this Compact, the following words, phrases and terms shall have the following meanings:

15 “(a) ‘ACT Basin’ or ‘ACT’ means the area of natural drainage into the Alabama River and its tributaries, the Coosa River and its tributaries, and the Tallapoosa River and its tributaries. Any reference to the rivers within this Compact will be designated using the letters ‘ACT’ and when so referenced will mean each of these three rivers and each of the tributaries to each such river.

22 ‘(b) ‘Allocation formula’ means the methodology, in whatever form, by which the ACT Basin Commission determines an equitable apportionment of surface waters within the ACT Basin among the two states. Such formula

1 may be represented by a table, chart, mathematical cal-
2 culation or any other expression of the Commission's ap-
3 portionment of waters pursuant to this compact.

4 “(c) ‘Commission’ or ‘ACT Basin Commission’ means
5 the Alabama-Coosa-Tallapoosa River Basin Commission
6 created and established pursuant to this Compact.

7 “(d) ‘Ground waters’ means waters within a satu-
8 rated zone or stratum beneath the surface of land, wheth-
9 er or not flowing through known and definite channels.

10 “(e) ‘Person’ means any individual, firm, association,
11 organization, partnership, business, trust, corporation,
12 public corporation, company, the United States of Amer-
13 ica, any state, and all political subdivisions, regions, dis-
14 tricts, municipalities, and public agencies thereof.

15 “(f) ‘Surface waters’ means waters upon the surface
16 of the earth, whether contained in bounds created natu-
17 rally or artificially or diffused. Water from natural springs
18 shall be considered ‘surface waters’ when it exits from the
19 spring onto the surface of the earth.

20 “(g) ‘United States’ means the executive branch of
21 the Government of the United States of America, and any
22 department, agency, bureau or division thereof.

23 “(h) ‘Water Resource Facility’ means any facility or
24 project constructed for the impoundment, diversion, reten-

1 tion, control or regulation of waters within the ACT Basin
 2 for any purpose.

3 “(i) ‘Water resources,’ or ‘waters’ means all surface
 4 waters and ground waters contained or otherwise originat-
 5 ing within the ACT Basin.

6 “ARTICLE V

7 “CONDITIONS PRECEDENT TO LEGAL 8 VIABILITY OF THE COMPACT

9 “This Compact shall not be binding on any party
 10 until it has been enacted into law by the legislatures of
 11 the States of Alabama and Georgia and by the Congress
 12 of the United States of America.

13 “ARTICLE VI

14 “ACT BASIN COMMISSION CREATED

15 “(a) There is hereby created an interstate adminis-
 16 trative agency to be known as the ‘ACT Basin Commis-
 17 sion.’ The Commission shall be comprised of one member
 18 representing the State of Alabama, one member represent-
 19 ing the State of Georgia, and one non-voting member rep-
 20 resenting the United States of America. The State mem-
 21 bers shall be known as ‘State Commissioners’ and the
 22 Federal member shall be known as ‘Federal Commis-
 23 sioner.’ The ACT Basin Commission is a body politic and
 24 corporate, with succession for the duration of this Com-
 25 pact.

1 “(b) The Governor of each of the States shall serve
2 as the State Commissioner for his or her State. Each
3 State Commissioner shall appoint one or more alternate
4 members and one of such alternates as designated by the
5 State Commissioner shall serve in the State Commis-
6 sioner’s place and carry out the functions of the State
7 Commissioner, including voting on Commission matters,
8 in the event the State Commissioner is unable to attend
9 a meeting of the Commission. The alternate members
10 from each State shall be knowledgeable in the field of
11 water resources management. Unless otherwise provided
12 by law of the State for which an alternate State Commis-
13 sioner is appointed, each alternate State Commissioner
14 shall serve at the pleasure of the State Commissioner. In
15 the event of a vacancy in the office of an alternate, it shall
16 be filled in the same manner as an original appointment.

17 “(c) The President of the United States of America
18 shall appoint the Federal Commissioner who shall serve
19 as the representative of all Federal agencies with an inter-
20 est in the ACT. The President shall also appoint an alter-
21 nate Federal Commissioner to attend and participate in
22 the meetings of the Commission in the event the Federal
23 Commissioner is unable to attend meetings. When at
24 meetings, the alternate Federal Commissioner shall pos-
25 sess all of the powers of the Federal Commissioner. The

1 Federal Commissioner and alternate appointed by the
2 President shall serve until they resign or their replace-
3 ments are appointed.

4 “(d) Each state shall have one vote on the ACT Basin
5 Commission and the Commission shall make all decisions
6 and exercise all powers by unanimous vote of the two State
7 Commissioners. The Federal Commissioner shall not have
8 a vote but shall attend and participate in all meetings of
9 the ACT Basin Commission to the same extent as the
10 State Commissioners.

11 “(e) The ACT Basin Commission shall meet at least
12 once a year at a date set at its initial meeting. Such initial
13 meeting shall take place within ninety days of the ratifica-
14 tion of the Compact by the Congress of the United States
15 and shall be called by the chairman of the Commission.
16 Special meetings of the Commission may be called at the
17 discretion of the chairman of the Commission and shall
18 be called by the chairman of the Commission upon written
19 request of any member of the Commission. All members
20 shall be notified of the time and place designated for any
21 regular or special meeting at least five days prior to such
22 meeting in one of the following ways: by written notice
23 mailed to the last mailing address given to the Commission
24 by each member, by facsimile, telegram or by telephone.
25 The Chairmanship of the Commission shall rotate annu-

1 ally among the voting members of the Commission on an
2 alphabetical basis, with the first chairman to be the State
3 Commissioner representing the State of Alabama.

4 “(f) All meetings of the Commission shall be open
5 to the public.

6 “(g) The ACT Basin Commission, so long as the ex-
7 ercise of power is consistent with this Compact, shall have
8 the following general powers:

9 “(1) to adopt bylaws and procedures governing its
10 conduct;

11 “(2) to sue and be sued in any court of competent
12 jurisdiction;

13 “(3) to retain and discharge professional, technical,
14 clerical and other staff and such consultants as are nec-
15 essary to accomplish the purposes of this Compact;

16 “(4) to receive funds from any lawful source and ex-
17 pend funds for any lawful purpose;

18 “(5) to enter into agreements or contracts, where ap-
19 propriate, in order to accomplish the purposes of this
20 Compact;

21 “(6) to create committees and delegate responsibil-
22 ities;

23 “(7) to plan, coordinate, monitor, and make rec-
24 ommendations for the water resources of the ACT Basin
25 for the purposes of, but not limited to, minimizing adverse

1 impacts of floods and droughts and improving water qual-
2 ity, water supply, and conservation as may be deemed nec-
3 essary by the Commission;

4 “(8) to participate with other governmental and non-
5 governmental entities in carrying out the purposes of this
6 Compact;

7 “(9) to conduct studies, to generate information re-
8 garding the water resources of the ACT Basin, and to
9 share this information among the Commission members
10 and with others;

11 “(10) to cooperate with appropriate state, federal,
12 and local agencies or any other person in the development,
13 ownership, sponsorship, and operation of water resource
14 facilities in the ACT Basin; provided, however, that the
15 Commission shall not own or operate a federally-owned
16 water resource facility unless authorized by the United
17 States Congress;

18 “(11) to acquire, receive, hold and convey such per-
19 sonal and real property as may be necessary for the per-
20 formance of its duties under the Compact; provided, how-
21 ever, that nothing in this Compact shall be construed as
22 granting the ACT Basin Commission authority to issue
23 bonds or to exercise any right of eminent domain or power
24 of condemnation;

1 “(12) to establish and modify an allocation formula
 2 for apportioning the surface waters of the ACT Basin
 3 among the states of Alabama and Georgia; and

4 “(13) to perform all functions required of it by this
 5 Compact and to do all things necessary, proper or conven-
 6 ient in the performance of its duties hereunder, either
 7 independently or in cooperation with any state or the
 8 United States.

9 “ARTICLE VII

10 “EQUITABLE APPORTIONMENT

11 “(a) It is the intent of the parties to this Compact
 12 to develop an allocation formula for equitably apportioning
 13 the surface waters of the ACT Basin among the states
 14 while protecting the water quality, ecology and biodiversity
 15 of the ACT, as provided in the Clean Water Act, 33 U.S.C.
 16 Sections 1251 et seq., the Endangered Species Act, 16
 17 U.S.C. Sections 1532 et seq., the National Environmental
 18 Policy Act, 42 U.S.C. Sections 4321 et seq., the Rivers
 19 and Harbors Act of 1899, 33 U.S.C. Sections 401 et seq.,
 20 and other applicable federal laws. For this purpose, all
 21 members of the ACT Basin Commission, including the
 22 Federal Commissioner, shall have full rights to notice of
 23 and participation in all meetings of the ACT Basin Com-
 24 mission and technical committees in which the basis and
 25 terms and conditions of the allocation formula are to be

1 discussed or negotiated. When an allocation formula is
2 unanimously approved by the State Commissioners, there
3 shall be an agreement among the states regarding an allo-
4 cation formula. The allocation formula thus agreed upon
5 shall become effective and binding upon the parties to this
6 Compact upon receipt by the Commission of a letter of
7 concurrence with said formula from the Federal Commis-
8 sioner. If, however, the Federal Commissioner fails to sub-
9 mit a letter of concurrence to the Commission within two
10 hundred ten (210) days after the allocation formula is
11 agreed upon by the State Commissioners, the Federal
12 Commissioner shall within forty-five (45) days thereafter
13 submit to the ACT Basin Commission a letter of non-
14 concurrence with the allocation formula setting forth
15 therein specifically and in detail the reasons for non-
16 concurrence; provided, however, the reasons for non-
17 concurrence as contained in the letter of nonconcurrence
18 shall be based solely upon federal law. The allocation for-
19 mula shall also become effective and binding upon the par-
20 ties to this Compact if the Federal Commissioner fails to
21 submit to the ACT Basin Commission a letter of non-
22 concurrence in accordance with this Article. Once adopted
23 pursuant to this Article, the allocation formula may only
24 be modified by unanimous decision of the State Commis-

1 sioners and the concurrence by the Federal Commissioner
2 in accordance with the procedures set forth in this Article.

3 “(b) The parties to this Compact recognize that the
4 United States operates certain projects within the ACT
5 Basin that may influence the water resources within the
6 ACT Basin. The parties to this Compact further acknowl-
7 edge and recognize that various agencies of the United
8 States have responsibilities for administering certain fed-
9 eral laws and exercising certain federal powers that may
10 influence the water resources within the ACT Basin. It
11 is the intent of the parties to this Compact, including the
12 United States, to achieve compliance with the allocation
13 formula adopted in accordance with this Article. Accord-
14 ingly, once an allocation formula is adopted, each and
15 every officer, agency, and instrumentality of the United
16 States shall have an obligation and duty, to the maximum
17 extent practicable, to exercise their powers, authority, and
18 discretion in a manner consistent with the allocation for-
19 mula so long as the exercise of such powers, authority,
20 and discretion is not in conflict with federal law.

21 “(c) Between the effective date of this Compact and
22 the approval of the allocation formula under this Article,
23 the signatories to this Compact agree that any person who
24 is withdrawing, diverting, or consuming water resources
25 of the ACT Basin as of the effective date of this Compact,

1 may continue to withdraw, divert or consume such water
2 resources in accordance with the laws of the state where
3 such person resides or does business and in accordance
4 with applicable federal laws. The parties to this Compact
5 further agree that any such person may increase the
6 amount of water resources withdrawn, diverted or
7 consumed to satisfy reasonable increases in the demand
8 of such person for water between the effective date of this
9 Compact and the date on which an allocation formula is
10 approved by the ACT Basin Commission as permitted by
11 applicable law. Each of the state parties to this Compact
12 further agree to provide written notice to each of the other
13 parties to this Compact in the event any person increases
14 the withdrawal, diversion or consumption of such water
15 resources by more than 10 million gallons per day on an
16 average annual daily basis, or in the event any person,
17 who was not withdrawing, diverting or consuming any
18 water resources from the ACT Basin as of the effective
19 date of this Compact, seeks to withdraw, divert or
20 consume more than one million gallons per day on an aver-
21 age annual daily basis from such resources. This Article
22 shall not be construed as granting any permanent, vested
23 or perpetual rights to the amounts of water used between
24 January 3, 1992 and the date on which the Commission
25 adopts an allocation formula.

1 “(d) As the owner, operator, licensor, permitting au-
 2 thority or regulator of a water resource facility under its
 3 jurisdiction, each state shall be responsible for using its
 4 best efforts to achieve compliance with the allocation for-
 5 mula adopted pursuant to this Article. Each such state
 6 agrees to take such actions as may be necessary to achieve
 7 compliance with the allocation formula.

8 “(e) This Compact shall not commit any state to
 9 agree to any data generated by any study or commit any
 10 state to any allocation formula not acceptable to such
 11 state.

12 “ARTICLE VIII
 13 “CONDITIONS RESULTING IN TERMINATION OF
 14 THE COMPACT

15 “(a) This Compact shall be terminated and thereby
 16 be void and of no further force and effect if any of the
 17 following events occur:

18 “(1) The legislatures of the states of Alabama and
 19 Georgia each agree by general laws enacted by each state
 20 within any three consecutive years that this Compact
 21 should be terminated.

22 “(2) The United States Congress enacts a law ex-
 23 pressly repealing this Compact.

24 “(3) The States of Alabama and Georgia fail to agree
 25 on an equitable apportionment of the surface waters of

1 the ACT as provided in Article VII(a) of this Compact
2 by December 31, 1998, unless the voting members of the
3 ACT Basin Commission unanimously agree to extend this
4 deadline.

5 “(4) The Federal Commissioner submits to the Com-
6 mission a letter of nonconcurrence in the initial allocation
7 formula in accordance with Article VII(a) of the Compact,
8 unless the voting members of the ACT Basin Commission
9 unanimously agree to allow a single 45 day period in which
10 the non-voting Federal Commissioner and the voting State
11 Commissioners may renegotiate an allocation formula and
12 the Federal Commissioner withdraws the letter of non-
13 concurrence upon completion of this renegotiation.

14 “(b) If the Compact is terminated in accordance with
15 this Article it shall be of no further force and effect and
16 shall not be the subject of any proceeding for the enforce-
17 ment thereof in any federal or state court. Further, if so
18 terminated, no party shall be deemed to have acquired a
19 specific right to any quantity of water because it has be-
20 come a signatory to this Compact.

21 “ARTICLE IX

22 “COMPLETION OF STUDIES PENDING
23 ADOPTION OF ALLOCATION FORMULA

24 “The ACT Basin Commission, in conjunction with
25 one or more interstate, federal, state or local agencies, is

1 hereby authorized to participate in any study in process
 2 as of the effective date of this Compact, including, without
 3 limitation, all or any part of the Alabama-Coosa-
 4 Tallapoosa/ Apalachicola-Chattahoochee-Flint River Basin
 5 Comprehensive Water Resource Study, as may be deter-
 6 mined by the Commission in its sole discretion.

7 “ARTICLE X

8 “RELATIONSHIP TO OTHER LAWS

9 “(a) It is the intent of the party states and of the
 10 United States Congress by ratifying this Compact, that
 11 all state and federal officials enforcing, implementing or
 12 administering other state and federal laws affecting the
 13 ACT Basin shall, to the maximum extent practicable, en-
 14 force, implement or administer those laws in furtherance
 15 of the purposes of this Compact and the allocation formula
 16 adopted by the Commission insofar as such actions are
 17 not in conflict with applicable federal laws.

18 “(b) Nothing contained in this Compact shall be
 19 deemed to restrict the executive powers of the President
 20 in the event of a national emergency.

21 “(c) Nothing contained in this Compact shall impair
 22 or affect the constitutional authority of the United States
 23 or any of its powers, rights, functions or jurisdiction under
 24 other existing or future laws in and over the area or wa-
 25 ters which are the subject of the Compact, including

1 projects of the Commission, nor shall any act of the Com-
2 mission have the effect of repealing, modifying or amend-
3 ing any federal law. All officers, agencies and instrumen-
4 talities of the United States shall exercise their powers and
5 authority over water resources in the ACT Basin and
6 water resource facilities, and to the maximum extent prac-
7 ticable, shall exercise their discretion in carrying out their
8 responsibilities, powers, and authorities over water re-
9 sources in the ACT Basin and water resource facilities in
10 the ACT Basin in a manner consistent with and that effec-
11 tuates the allocation formula developed pursuant to this
12 Compact or any modification of the allocation formula so
13 long as the actions are not in conflict with any applicable
14 federal law. The United States Army Corps of Engineers,
15 or its successors, and all other federal agencies and instru-
16 mentalities shall cooperate with the ACT Basin Commis-
17 sion in accomplishing the purposes of the Compact and
18 fulfilling the obligations of each of the parties to the Com-
19 pact regarding the allocation formula.

20 “(d) Once adopted by the two states and ratified by
21 the United States Congress, this Compact shall have the
22 full force and effect of federal law, and shall supersede
23 state and local laws operating contrary to the provisions
24 herein or the purposes of this Compact; provided, however,
25 nothing contained in this Compact shall be construed as

1 affecting or intending to affect or in any way to interfere
 2 with the laws of the respective signatory states relating
 3 to water quality, and riparian rights as among persons ex-
 4 clusively within each state.

5 “ARTICLE XI

6 “PUBLIC PARTICIPATION

7 “All meetings of the Commission shall be open to the
 8 public. The signatory parties recognize the importance and
 9 necessity of public participation in activities of the Com-
 10 mission, including the development and adoption of the
 11 initial allocation formula and any modification thereto.
 12 Prior to the adoption of the initial allocation formula, the
 13 Commission shall adopt procedures ensuring public par-
 14 ticipation in the development, review, and approval of the
 15 initial allocation formula and any subsequent modification
 16 thereto. At a minimum, public notice to interested parties
 17 and a comment period shall be provided. The Commission
 18 shall respond in writing to relevant comments.

19 “ARTICLE XII

20 “FUNDING AND EXPENSES OF THE

21 COMMISSION

22 “Commissioners shall serve without compensation
 23 from the ACT Basin Commission. All general operational
 24 funding required by the Commission and agreed to by the
 25 voting members shall obligate each state to pay an equal

1 share of such agreed upon funding. Funds remitted to the
 2 Commission by a state in payment of such obligation shall
 3 not lapse; provided, however, that if any state fails to
 4 remit payment within 90 days after payment is due, such
 5 obligation shall terminate and any state which has made
 6 payment may have such payment returned. Costs of at-
 7 tendance and participation at meetings of the Commission
 8 by the Federal Commissioner shall be paid by the United
 9 States.

10 “ARTICLE XIII

11 “DISPUTE RESOLUTION

12 “(a) In the event of a dispute between the voting
 13 members of this Compact involving a claim relating to
 14 compliance with the allocation formula adopted by the
 15 Commission under this Compact, the following procedures
 16 shall govern:

17 “(1) Notice of claim shall be filed with the Commis-
 18 sion by a voting member of this Compact and served upon
 19 each member of the Commission. The notice shall provide
 20 a written statement of the claim, including a brief nar-
 21 rative of the relevant matters supporting the claimant’s
 22 position.

23 “(2) Within twenty (20) days of the Commission’s re-
 24 ceipt of a written statement of a claim, the party or parties
 25 to the Compact against whom the complaint is made may

1 prepare a brief narrative of the relevant matters and file
2 it with the Commission and serve it upon each member
3 of the Commission.

4 “(3) Upon receipt of a claim and any response or re-
5 sponses thereto, the Commission shall convene as soon as
6 reasonably practicable, but in no event later than twenty
7 (20) days from receipt of any response to the claim, and
8 shall determine if a resolution of the dispute is possible.

9 “(4) A resolution of a dispute under this Article
10 through unanimous vote of the State Commissioners shall
11 be binding upon the state parties and any state party de-
12 termined to be in violation of the allocation formula shall
13 correct such violation without delay.

14 “(5) If the Commission is unable to resolve the dis-
15 pute within 10 days from the date of the meeting convened
16 pursuant to subparagraph (a)(3) of this Article, the Com-
17 mission shall select, by unanimous decision of the voting
18 members of the Commission, an independent mediator to
19 conduct a non-binding mediation of the dispute. The medi-
20 ator shall not be a resident or domiciliary of any member
21 state, shall not be an employee or agent of any member
22 of the Commission, shall be a person knowledgeable in
23 water resource management issues, and shall disclose any
24 and all current or prior contractual or other relations to
25 any member of the Commission. The expenses of the medi-

1 ator shall be paid by the Commission. If the mediator be-
2 comes unwilling or unable to serve, the Commission by
3 unanimous decision of the voting members of the Commis-
4 sion, shall appoint another independent mediator.

5 “(6) If the Commission fails to appoint an independ-
6 ent mediator to conduct a non-binding mediation of the
7 dispute within seventy-five (75) days of the filing of the
8 original claim or within thirty (30) days of the date on
9 which the Commission learns that a mediator is unwilling
10 or unable to serve, the party submitting the claim shall
11 have no further obligation to bring the claim before the
12 Commission and may proceed by pursuing any appropriate
13 remedies, including any and all judicial remedies.

14 “(7) If an independent mediator is selected, the medi-
15 ator shall establish the time and location for the mediation
16 session or sessions and may request that each party to
17 the Compact submit, in writing, to the mediator a state-
18 ment of its position regarding the issue or issues in dis-
19 pute. Such statements shall not be exchanged by the par-
20 ties except upon the unanimous agreement of the parties
21 to the mediation.

22 “(8) The mediator shall not divulge confidential in-
23 formation disclosed to the mediator by the parties or by
24 witnesses, if any, in the course of the mediation. All
25 records, reports, or other documents received by a medi-

1 ator while serving as a mediator shall be considered con-
2 fidential. The mediator shall not be compelled in any ad-
3 versary proceeding or judicial forum to divulge the con-
4 tents of such documents or the fact that such documents
5 exist or to testify in regard to the mediation.

6 “(9) Each party to the mediation shall maintain the
7 confidentiality of the information received during the me-
8 diation and shall not rely on or introduce in any judicial
9 proceeding as evidence:

10 “a. Views expressed or suggestions made by another
11 party regarding a settlement of the dispute;

12 “b. Proposals made or views expressed by the medi-
13 ator; or

14 “c. The fact that another party to the hearing had
15 or had not indicated a willingness to accept a proposal
16 for settlement of the dispute.

17 “(10) The mediator may terminate the non-binding
18 mediation session or sessions whenever, in the judgment
19 of the mediator, further efforts to resolve the dispute
20 would not lead to a resolution of the dispute between or
21 among the parties. Any party to the dispute may termi-
22 nate the mediation process at any time by giving written
23 notification to the mediator and the Commission. If termi-
24 nated prior to reaching a resolution, the party submitting
25 the original claim to the Commission shall have no further

1 obligation to bring its claim before the Commission and
2 may proceed by pursuing any appropriate remedies, in-
3 cluding any and all judicial remedies.

4 “(11) The mediator shall have no authority to require
5 the parties to enter into a settlement of any dispute re-
6 garding the Compact. The mediator may simply attempt
7 to assist the parties in reaching a mutually acceptable res-
8 olution of their dispute. The mediator is authorized to con-
9 duct joint and separate meetings with the parties to the
10 mediation and to make oral or written recommendations
11 for a settlement of the dispute.

12 “(12) At any time during the mediation process, the
13 Commission is encouraged to take whatever steps it deems
14 necessary to assist the mediator or the parties to resolve
15 the dispute.

16 “(13) In the event of a proceeding seeking enforce-
17 ment of the allocation formula, this Compact creates a
18 cause of action solely for equitable relief. No action for
19 money damages may be maintained. The party or parties
20 alleging a violation of the Compact shall have the burden
21 of proof.

22 “(b) In the event of a dispute between any voting
23 member and the United States relating to a state’s non-
24 compliance with the allocation formula as a result of ac-
25 tions or a refusal to act by officers, agencies or instrumen-

1 talities of the United States, the provisions set forth in
2 paragraph (a) of this Article (other than the provisions
3 of subparagraph (a)(4)) shall apply.

4 “(c) The United States may initiate dispute resolu-
5 tion under paragraph (a) in the same manner as other
6 parties to this Compact.

7 “(d) Any signatory party who is affected by any ac-
8 tion of the Commission, other than the adoption or en-
9 forcement of or compliance with the allocation formula,
10 may file a complaint before the ACT Basin Commission
11 seeking to enforce any provision of this Compact.

12 “(1) The Commission shall refer the dispute to an
13 independent hearing officer or mediator, to conduct a
14 hearing or mediation of the dispute. If the parties are un-
15 able to settle their dispute through mediation, a hearing
16 shall be held by the Commission or its designated hearing
17 officer. Following a hearing conducted by a hearing offi-
18 cer, the hearing officer shall submit a report to the Com-
19 mission setting forth findings of fact and conclusions of
20 law, and making recommendations to the Commission for
21 the resolution of the dispute.

22 “(2) The Commission may adopt or modify the rec-
23 ommendations of the hearing officer within 60 days of
24 submittal of the report. If the Commission is unable to
25 reach unanimous agreement on the resolution of the dis-

1 pute within 60 days of submittal of the report with the
2 concurrence of the Federal Commissioner in disputes in-
3 volving or affecting federal interests, the affected party
4 may file an action in any court of competent jurisdiction
5 to enforce the provisions of this Compact. The hearing of-
6 ficer's report shall be of no force and effect and shall not
7 be admissible as evidence in any further proceedings.

8 “(e) All actions under this Article shall be subject to
9 the following provisions:

10 “(1) The Commission shall adopt guidelines and pro-
11 cedures for the appointment of hearing officers or inde-
12 pendent mediators to conduct all hearings and mediations
13 required under this Article. The hearing officer or medi-
14 ator appointed under this Article shall be compensated by
15 the Commission.

16 “(2) All hearings or mediations conducted under this
17 article may be conducted utilizing the Federal Administra-
18 tive Procedures Act, the Federal Rules of Civil Procedure,
19 and the Federal Rules of Evidence. The Commission may
20 also choose to adopt some or all of its own procedural and
21 evidentiary rules for the conduct of hearings or mediations
22 under this Compact.

23 “(3) Any action brought under this Article shall be
24 limited to equitable relief only. This Compact shall not
25 give rise to a cause of action for money damages.

1 “(4) Any signatory party bringing an action before
 2 the Commission under this Article shall have the burdens
 3 of proof and persuasion.

4 “ARTICLE XIV

5 “ENFORCEMENT

6 “The Commission may, upon unanimous decision,
 7 bring an action against any person to enforce any provi-
 8 sion of this Compact, other than the adoption or enforce-
 9 ment of or compliance with the allocation formula, in any
 10 court of competent jurisdiction.

11 “ARTICLE XV

12 “IMPACTS ON OTHER STREAM SYSTEMS

13 “This Compact shall not be construed as establishing
 14 any general principle or precedent applicable to any other
 15 interstate streams.

16 “ARTICLE XVI

17 “IMPACT OF COMPACT ON USE OF WATER
 18 WITHIN THE BOUNDARIES OF THE COM-
 19 PACTING STATES

20 “The provisions of this Compact shall not interfere
 21 with the right or power of any state to regulate the use
 22 and control of water within the boundaries of the state,
 23 providing such state action is not inconsistent with the al-
 24 location formula.

1 “ARTICLE XVII

2 “AGREEMENT REGARDING WATER QUALITY

3 “(a) The States of Alabama and Georgia mutually
4 agree to the principle of individual State efforts to control
5 man-made water pollution from sources located and oper-
6 ating within each State and to the continuing support of
7 each State in active water pollution control programs.

8 “(b) The States of Alabama and Georgia agree to co-
9 operate, through their appropriate State agencies, in the
10 investigation, abatement, and control of sources of alleged
11 interstate pollution within the ACT River Basin whenever
12 such sources are called to their attention by the Commis-
13 sion.

14 “(c) The States of Alabama and Georgia agree to co-
15 operate in maintaining the quality of the waters of the
16 ACT River Basin.

17 “(d) The States of Alabama and Georgia agree that
18 no State may require another state to provide water for
19 the purpose of water quality control as a substitute for
20 or in lieu of adequate waste treatment.

21 “ARTICLE XVIII

22 “EFFECT OF OVER OR UNDER DELIVERIES
23 UNDER THE COMPACT

24 “No state shall acquire any right or expectation to
25 the use of water because of any other state’s failure to

1 use the full amount of water allocated to it under this
 2 Compact.

3 “ARTICLE XIX

4 “SEVERABILITY

5 “If any portion of this Compact is held invalid for
 6 any reason, the remaining portions, to the fullest extent
 7 possible, shall be severed from the void portion and given
 8 the fullest possible force, effect, and application.

9 “ARTICLE XX

10 “NOTICE AND FORMS OF SIGNATURE

11 “Notice of ratification of this Compact by the legisla-
 12 ture of each state shall promptly be given by the Governor
 13 of the ratifying state to the Governor of the other partici-
 14 pating state. When the two state legislatures have ratified
 15 the Compact, notice of their mutual ratification shall be
 16 forwarded to the Congressional delegation of the signatory
 17 states for submission to the Congress of the United States
 18 for ratification. When the Compact is ratified by the Con-
 19 gress of the United States, the President, upon signing
 20 the federal ratification legislation, shall promptly notify
 21 the Governors of the participating states and appoint the
 22 Federal Commissioner. The Compact shall be signed by
 23 all three Commissioners as their first order of business
 24 at their first meeting and shall be filed of record in the
 25 party states.”.

1 **SEC. 2. INCONSISTENCY OF LANGUAGE.**

2 The validity of the compact consented to by this Act
3 shall not be affected by any insubstantial difference in its
4 form or language as adopted by the States.

5 **SEC. 3. RIGHT TO ALTER, AMEND, OR REPEAL.**

6 The right to alter, amend, or repeal this joint resolu-
7 tion is hereby expressly reserved.

8 **SEC. 4. RESERVATIONS.**

9 To ensure participation of Federal agencies during
10 the development of the allocation formula and participa-
11 tion in all technical working groups and meetings in which
12 the terms and conditions of the allocation formula are ne-
13 gotiated and to preserve Federal discretion under law, the
14 consent of Congress to, and participation of the United
15 States in, the Alabama-Coosa-Tallapoosa River Basin
16 Compact, is subject to the following conditions and res-
17 ervations:

18 (1) Representatives of any Federal agency may
19 attend any and all meetings of the Commission.

20 (2) Upon the request of the Federal Commis-
21 sioner, representatives of any Federal agency may
22 participate in any meetings of technical committees,
23 if any, of the Commission at which the basis or
24 terms and conditions of the allocation formula or
25 modifications to the allocation formula are to be dis-
26 cussed or negotiated.

1 (3) The Federal Commissioner shall be given
2 notice of any meeting of the Commission or any
3 meeting of technical committees, if any, of the Com-
4 mission at which compliance with the allocation for-
5 mula by one or more officers, agencies, or instru-
6 mentalities of the United States is to be discussed.

7 (4) Under the provisions of Article VII(a), the
8 Federal Commissioner may submit a letter of con-
9 currence with the allocation formula unanimously
10 adopted by the State Commissioners within 255
11 days of such adoption.

12 (5) No mediator shall be selected under Article
13 XIII(b) or Article XIII(c) without the concurrence of
14 the Federal Commissioner and no resolution of a
15 dispute under Article XIII(c) shall be made binding
16 on the United States without the concurrence of the
17 Federal Commissioner.

18 (6) The obligations of employees, agencies, and
19 instrumentalities of the United States pursuant to
20 Articles VII(b), X(a), and X(c) to exercise their dis-
21 cretion, to the maximum extent practicable, in a
22 manner consistent with the allocation formula shall
23 not be construed to interfere with the ability of such
24 employees, agencies, and instrumentalities to take
25 actions during emergency situations.

1 (7) As among water right holders within any
 2 one State, nothing in this Compact shall be con-
 3 strued as affecting or intending to affect or in any
 4 way to interfere with the laws of the respective sig-
 5 natory States relating to riparian rights of the Unit-
 6 ed States in and to the waters of the Alabama-
 7 Coosa-Tallapoosa River Basin.

8 **SEC. 5. EFFECTUATION.**

9 (a) **FEDERAL AGENCY AUTHORITY.**—To carry out
 10 the purposes of this Compact, Federal agencies are au-
 11 thorized, as they may deem appropriate—

12 (1) to engage in cooperative relationships with
 13 the Commission;

14 (2) to conduct studies and monitoring programs
 15 in cooperation with the Commission;

16 (3) to enter into agreements to indemnify pri-
 17 vate landowners against liability that may arise from
 18 studies and monitoring programs undertaken in co-
 19 operation with the Commission; and

20 (4) to furnish assistance, including the provi-
 21 sion of services, facilities, and personnel, to the Fed-
 22 eral Commissioner.

23 (b) **APPROPRIATIONS.**—Appropriations are author-
 24 ized as necessary for implementing the Compact, including
 25 appropriations for carrying out the functions of the Fed-

- 1 eral Commissioner and alternates and for employment of
- 2 personnel by the Federal Commissioner.

Passed the House of Representatives November 4,
1997.

Attest:

Clerk.